

**RECREATIONAL THERAPY GOVERNING BOARD
OFFICE OF LICENSED ALLIED HEALTH PROFESSIONALS
CONCORD, NEW HAMPSHIRE**

In The Matter Of:

Docket #10-2014

Karen L. Rosenthal
(Application for Reinstatement of Licensure)

DECISION AND ORDER

By the Board: Rebecca Taylor, RT, Chair, John J. Preve, Public Member, Jennifer Frye, RT, Bronwyn Dronsfield, RT, and Stephany Lavallee, Public Member

Also present: Tina M. Kelley, Administrator to the Board

Appearances: None

On November 18, 2014, the New Hampshire Recreational Therapy Governing Board (“Board”) held a hearing in the matter of Karen L. Rosenthal (“Ms. Rosenthal”) pursuant to the Board’s “Notice of Hearing”. The hearing was held in accordance with RSA 328-F:23, RSA 328-F: 24, RSA 541-A, Ahp 200 and Rec 200. Ms. Rosenthal failed to appear.

Ms. Rosenthal did provide a letter answering the allegations set forth in Notice of Hearing and supporting documents. The Board opened the hearing on November 18, 2014 at 8:30 am. The documents Ms. Rosenthal submitted were received in the mail on November 18, 2014 after the Recreational Therapy Governing closed the hearing. The Notice of Hearing instructed Ms. Rosenthal to submit any documents 10 days prior to the hearing.

Background Information

Ms. Rosenthal was first licensed to practice as a Recreational Therapist in the State of New Hampshire on December 12, 2007.

On December 31, 2012 Ms. Rosenthal’s license to practice lapsed for non-renewal.

On May 6, 2014 Ms. Rosenthal submitted a completed application for renewal (*Exhibit #1*).

In support of her application for reinstatement Ms. Rosenthal submitted a letter (*Exhibit #2*), which was received in the Board's office on July 21, 2014, in which she states that in December of 2013 she went to work for Tewksbury Hospital in Massachusetts. In the letter she informed the Board that on March 21, 2014 she had been let go from Tewksbury Hospital for "not being a good fit".

On July 21, 2014 Ms. Rosenthal submitted a resume (*Exhibit #3*). The resume indicated the following:

1. Between March 2005 and December 2006 Ms. Rosenthal held 3 different positions as a Recreational Therapist. Not one of these positions lasted longer than 9 months.
2. Ms. Rosenthal was practicing at the State of New Hampshire Department of Corrections Residential Treatment Unit from February 2007 to Present as a Recreational Therapist.

Ms. Rosenthal's license to practice expired on December 31, 2012. Review of the resume indicated that Ms. Rosenthal had been practicing at the NH Department of Corrections for 18 months without a license.

At the Board's meeting held August 19, 2014 the Board reviewed the Ms. Rosenthal's file. Based on that review the Board sent a letter (*Exhibit #4*) requesting the following items:

1. An updated resume showing where she had been employed since she left employment at the New Hampshire Department of Corrections as indicated by *Exhibit #2*;
2. A copy of the current job description provided by Lakeview at the Meadows; and
3. A detailed explanation of why she was dismissed from Tewksbury Hospital in Massachusetts.

On August 29, 2014 the Board's office received Ms. Rosenthal's response to the letter dated August 29, 2014 (*Exhibit #5*) which contained an updated resume (*Exhibit #6*). The Board noted the following with regards to the written response:

1. The letter stated that the enclosed resume was updated since she had been employed by the Department of Corrections and provided a list of things that she had been doing outside of the practice of recreational therapy.

2. In the letter Ms. Rosenthal further stated that she had begun working at Tewksbury Hospital in Massachusetts in December of 2013 and did not need a license in Massachusetts to do so. She stated that she had been let go from employment because she was “not a good fit” on March 21, 2014 after only four months of employment. Ms. Rosenthal stated that she had been assaulted by a psychotic patient on February 5, 2013 and was suffering from lower back, shoulder, ankle pain and PTSD. Ms. Rosenthal’s physician allowed her to work, partial duty, but was sent home because Tewksbury Hospital had no partial work and was let go once she returned to work full time.
3. Ms. Rosenthal then explained that she had left Lakeview after nine weeks because she “felt it was a very dangerous with patients eloping daily and violent behaviors and low staffing.” She further stated that she had been supervised by two different individuals who both left their positions during her time of employment. She stated that when Lakeview hired her they knew she was in the process of applying for licensure and hired her as a Recreation Director. She indicated that she was never provided with a job description for this title.

The Board noted the following with regards to the Petitioners resume:

1. The updated resume received August 29, 2014 still indicated that Ms. Rosenthal was employed by the State of NH Department of Corrections Residential Treatment Unit.
2. Ms. Rosenthal has not been employed in any place of employment for longer than 9 months since March of 2005 with the exception of the State of NH Department of Corrections Residential Treatment. The Board is unable to determine if or when employment ended at the Department of Corrections due to the fact that the resume still indicates that Ms. Rosenthal is presently employed at that facility.
3. The letter received August 29, 2014 submitted by Ms. Rosenthal indicates that there was a break in employment at some point but the Board is unable to determine when that break occurred because the resume does not show any breaks in employment.

At the hearing the Board reviewed numerous exhibits submitted with the Notice of Hearing.

The following exhibits were entered into evidence:

Board Exhibits:

Exhibit #1 – Application for Reinstatement of Licensure or Certification

Exhibit #2 – May 16, 2014 letter

Exhibit #3 – Karen L. Rosenthal Resume

Exhibit #4 – August 19, 2014 letter

Exhibit #5 – August 25, 2014 letter

Exhibit #6 – Karen L. Rosenthal Resume (updated)

Ms. Rosenthal failed to appear before the Board and there were no witnesses present to give testimony. The hearing was held *in absentia*.

Applicable Laws:

RSA 328-F:19 III:

- III. Applicants shall submit completed applications for renewal on or before December 1 of the renewal year. Completed renewal applications submitted between December 2 and December 31 of the renewal year shall be accompanied by a late filing fee. Licenses shall lapse when completed renewal applications have not been filed by December 31 of the renewal year, and their holders are not authorized to practice until the licenses have been reinstated.

RSA 328-F:23 II;

- (a) Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, and license reinstatement.

RSA 328-F:23 II;

- (c) Violation of the ethical standards adopted by the governing board.

RSA 328-F:23 II:

- (e) Failure to provide care with reasonable skill, safety and regard for client or patient rights, whether or not the client or patient has suffered injury.

RSA 328-F:23 II;

- (f) Actual or potential inability to render care with reasonable skill and safety by reason of illness, by reason of use of alcohol or drugs or any other material, or by reason of mental or physical condition.

RSA 328-F:23 II:

- (i) Practice without a currently valid license.

RSA 328-F:23 II:

- (j) Violation of any provision of this chapter, or any governing board's practice act or rule adopted pursuant to RSA 541-A, or any state or federal law reasonably related to the licensee's authority to practice safely.

RSA 326-J:5 I:

- (b) Be of good moral character.

Rec 404.01(a):

Knowingly or negligently providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of applying for a license, license renewal, or license reinstatement;

Rec 404.01(c):

Failing to provide care with reasonable skill, safety and regard for client or patient rights, whether or not the client or patient has suffered injury;

Rec 404.01(i):

- (i) Practicing recreation therapy when a previously issued license is not currently valid;
and

Rec 404.01(j):

Violating:

- (1) Any provision of RSA 328-F;
- (2) Any provision of RSA 326-J;
- (3) Any rule adopted by the board; or
- (4) Any state or federal law reasonably related to the licensee's authority to practice or the licensee's ability to practice safely.

Findings of Fact and Rulings of Law:

In light of the exhibits, the Board made the following findings of fact and rulings of law:

- Ms. Rosenthal's license to practice in the State of New Hampshire lapsed on December 31, 2012 for non-renewal.
- Ms. Rosenthal applied for reinstatement of her recreational therapy license by submitting a completed application for reinstatement of licensure on May 6, 2014 and providing supporting documents as described in Rec 403.06.

- When an applicant for reinstatement completes the reinstatement application form the individual signs the form in accordance with Rec 403.05(a)(2) below the preprinted statement which states the applicant has certified that “I acknowledge that knowingly making a false statement on this application form is a misdemeanor under RSA 641:2, I. I certify that the information I have provided on all parts of the application form and in the documents that I have personally submitted to support my application is complete and accurate to the best of my knowledge and belief. I also certify that I have read the statute and rules of the Board and promise that, if I am licensed, I will abide by them.”
- The Board finds that Ms. Rosenthal submitted false and/or misleading information to the Board during the process of applying for reinstatement of her license based on the fact that neither resume submitted matches the information contained in either the letter received July 21, 2014 or the letter received August 29, 2014 in violation of RSA 328-F:23 II (a); RSA 328-F:23 II (j); Rec 404.01 (a); and Rec 404.01(j); and
- Based on the contradictory information provided by Ms. Rosenthal in the resumes received July 21, 2014 and August 29, 2014 and the two letters received July 21, 2014 and August 29, 2014 the Board is unable to determine whether or not Ms. Rosenthal practiced without a license since the lapse in her license on December 31, 2012.
- The Board is unable to determine if there was any violation of the Recreational Therapy Practice Act or relevant laws based on the fact that Ms. Rosenthal did not provide details of any of the incidents that took place at Tewksbury Hospital nor did she appear at the hearing scheduled for November 18, 2014 which would have afforded the Board to hear testimony and ask clarifying questions.
- The Board finds that Ms. Rosenthal failed to accurately report on her Application for Reinstatement Form that she was suffering from injuries of the lower back, shoulder and ankle pain, and PTSD in violation of RSA 328-F:23 II(a); Rec 404.01(a); Rec 404.01 (j).
- The Board is unable to determine if any of the medical conditions Ms. Rosenthal describes she is suffering from affects her ability to practice safely because Ms. Rosenthal did not appear before the Board to provide information regarding these conditions.

Based upon the findings of fact and rulings of law, the Board voted to order the following:

THEREFORE IT IS ORDERED, that Ms. Rosenthal's application for reinstatement of license be **DENIED**.

IT IS FURTHER ORDERED, that the Board will reconsider the denial of application for reinstatement when Ms. Rosenthal requests a Show Cause Hearing and appears before the Board. At that time Ms. Rosenthal shall provide:

1. A statement from the physician(s) that treated Ms. Rosenthal for lower back, shoulder, and ankle pain and PTSD indicating whether or not it is safe for Ms. Rosenthal to return to practice.
2. An accurate resume showing the exact date the employment began and the exact date the employment ended.
3. A statement from each of Ms. Rosenthal's employers where she used her skills as a Recreational Therapist from 2007 to present showing the following:
 - a. Beginning and ending date of employment;
 - b. Whether or not Ms. Rosenthal was released from her position by her employer; and
 - c. A detailed description of why she was released from her position.


If Ms. Rosenthal wishes she may provide additional documentation with regards to her medical condition at the time of the Show Cause Hearing.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Ms. Rosenthal's file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: December 16, 2014


Rebecca Taylor, RT, Chair
Authorized Representative of the
Recreational Therapy Governing Board